

# HOUSE BILL No. 6496

November 27, 2018, Introduced by Rep. Noble and referred to the Committee on Law and Justice.

A bill to amend 1977 PA 72, entitled "The medicaid false claim act," by amending section 7 (MCL 400.607), as amended by 2008 PA 421.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 7. (1) A person shall not make, ~~or~~ present, or cause to  
2 be made or presented to an employee or officer of this state a  
3 claim under the social welfare act ~~, 1939 PA 280, MCL 400.1 to~~  
4 ~~400.119b,~~ upon or against the state, knowing the claim to be false.

5           (2) A person shall not make, ~~or~~ present, or cause to be made  
6 or presented a claim under the social welfare act ~~, 1939 PA 280,~~  
7 ~~MCL 400.1 to 400.119b,~~ that he or she knows falsely represents that  
8 the goods or services for which the claim is made were medically  
9 necessary in accordance with professionally accepted standards.  
10 Each claim violating this subsection is a separate offense. A  
11 health facility or agency is not liable under this subsection

1 unless the health facility or agency, pursuant ~~to~~ **ACCORDING** to a  
2 conspiracy, combination, or collusion with a physician or other  
3 provider, falsely represents the medical necessity of the  
4 particular goods or services for which the claim was made.

5 (3) A person shall not knowingly make, use, or cause to be  
6 made or used a false record or statement to conceal, avoid, or  
7 decrease an obligation to pay or transmit money or property to the  
8 state pertaining to a claim presented under the social welfare act.

9 ~~— (4) A person who violates this section is guilty of a felony~~  
10 ~~punishable by imprisonment for not more than 4 years or a fine of~~  
11 ~~not more than \$50,000.00, or both.~~

12 (4) IF THE AMOUNT OF THE FALSE OR FRAUDULENT CLAIM IS LESS  
13 THAN \$1,000.00, THE PERSON IS GUILTY OF A MISDEMEANOR PUNISHABLE BY  
14 IMPRISONMENT FOR NOT MORE THAN 1 YEAR OR A FINE OF NOT MORE THAN  
15 \$2,000.00 OR 3 TIMES THE AMOUNT OF THE FALSE OR FRAUDULENT CLAIM,  
16 WHICHEVER IS GREATER, OR BOTH IMPRISONMENT AND A FINE.

17 (5) IF ANY OF THE FOLLOWING APPLY, THE PERSON IS GUILTY OF A  
18 FELONY PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 5 YEARS OR A  
19 FINE OF NOT MORE THAN \$10,000.00 OR 3 TIMES THE AMOUNT OF THE FALSE  
20 OR FRAUDULENT CLAIM, WHICHEVER IS GREATER, OR BOTH IMPRISONMENT AND  
21 A FINE:

22 (A) THE AMOUNT OF THE FALSE OR FRAUDULENT CLAIM IS \$1,000.00  
23 OR MORE BUT LESS THAN \$20,000.00.

24 (B) THE PERSON VIOLATES SUBSECTION (4) AND HAS 1 OR MORE PRIOR  
25 CONVICTIONS FOR COMMITTING OR ATTEMPTING TO COMMIT AN OFFENSE UNDER  
26 THIS SECTION.

27 (6) IF ANY OF THE FOLLOWING APPLY, THE PERSON IS GUILTY OF A

1 FELONY PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 10 YEARS OR A  
2 FINE OF NOT MORE THAN \$15,000.00 OR 3 TIMES THE AMOUNT OF THE FALSE  
3 OR FRAUDULENT CLAIM, WHICHEVER IS GREATER, OR BOTH IMPRISONMENT AND  
4 A FINE:

5 (A) THE AMOUNT OF THE FALSE OR FRAUDULENT CLAIM IS \$20,000.00  
6 OR MORE BUT LESS THAN \$50,000.00.

7 (B) THE PERSON VIOLATES SUBSECTION (4) OR (5) AND HAS 2 OR  
8 MORE PRIOR CONVICTIONS FOR COMMITTING OR ATTEMPTING TO COMMIT AN  
9 OFFENSE UNDER THIS SECTION.

10 (7) IF THE AMOUNT OF THE FALSE OR FRAUDULENT CLAIM IS  
11 \$50,000.00 OR MORE BUT LESS THAN \$100,000.00, THE PERSON IS GUILTY  
12 OF A FELONY PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 15 YEARS  
13 OR A FINE OF NOT MORE THAN \$25,000.00 OR 3 TIMES THE AMOUNT OF THE  
14 FALSE OR FRAUDULENT CLAIM, WHICHEVER IS GREATER, OR BOTH  
15 IMPRISONMENT AND A FINE.

16 (8) IF THE AMOUNT OF THE FALSE OR FRAUDULENT CLAIM IS  
17 \$100,000.00 OR MORE, THE PERSON IS GUILTY OF A FELONY PUNISHABLE BY  
18 IMPRISONMENT FOR NOT MORE THAN 20 YEARS OR A FINE OF NOT MORE THAN  
19 \$50,000.00 OR 3 TIMES THE AMOUNT OF THE FALSE OR FRAUDULENT CLAIM,  
20 WHICHEVER IS GREATER, OR BOTH IMPRISONMENT AND A FINE.

21 (9) THE AMOUNT OF THE FALSE OR FRAUDULENT CLAIMS SUBMITTED IN  
22 SEPARATE INCIDENTS ACCORDING TO A SCHEME OR COURSE OF CONDUCT MAY  
23 BE AGGREGATED TO DETERMINE THE TOTAL AMOUNT OF THE FALSE OR  
24 FRAUDULENT CLAIM SUBMITTED.

25 (10) IF THE PROSECUTING ATTORNEY INTENDS TO SEEK AN ENHANCED  
26 SENTENCE BASED ON THE DEFENDANT HAVING 1 OR MORE PRIOR CONVICTIONS,  
27 THE PROSECUTING ATTORNEY SHALL INCLUDE ON THE COMPLAINT AND

1 INFORMATION A STATEMENT LISTING THE PRIOR CONVICTION. THE EXISTENCE  
2 OF THE DEFENDANT'S PRIOR CONVICTION SHALL BE DETERMINED BY THE  
3 COURT, WITHOUT A JURY, AT SENTENCING OR AT A SEPARATE HEARING FOR  
4 THAT PURPOSE BEFORE SENTENCING. THE EXISTENCE OF A PRIOR CONVICTION  
5 MAY BE ESTABLISHED BY ANY EVIDENCE RELEVANT FOR THAT PURPOSE,  
6 INCLUDING, BUT NOT LIMITED TO, 1 OR MORE OF THE FOLLOWING:

7 (A) A COPY OF THE JUDGMENT OF CONVICTION.

8 (B) A TRANSCRIPT OF A PRIOR TRIAL, PLEA-TAKING, OR SENTENCING.

9 (C) INFORMATION CONTAINED IN A PRESENTENCE REPORT.

10 (D) THE DEFENDANT'S NAME.

11 Enacting section 1. This amendatory act takes effect 90 days  
12 after the date it is enacted into law.